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41-2803
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Isabelle CONESA et al.

Group Art Unit: 1774

Application No.: 09/936,923

Examiner: J. Gray

Filed: December 3, 2001

Docket No.: 110652

For: FLAME-RETARDED PLASTIC COMPOSITION, YARN AND TEXTILE
STRUCTURE COATED THEREWITH

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the September 9, 2003 Restriction Requirement, Applicants provisionally elect Group I, claims 1-6 and 25-26, with traverse.

I. Lack of Unity of Invention Has Not Been Demonstrated

Applicants respectfully assert that the Requirement is improper under the rules of practice in PCT national stage applications, because the appropriate unity of invention standards have not been properly applied by the Patent Office. In PCT national stage applications, the Examiner may issue a restriction-type Requirement if no unity of invention exists. However, the Examiner must state why there is no "single general inventive concept." See MPEP §1893.03(d). Therefore, a single application may include one invention, or more than one invention if the inventions are "linked as to form a single general inventive concept." Id. (emphasis added). If multiple inventions are included in the application, they are deemed to be

linked if there exists a "technical relationship among the inventions that involves at least one common or corresponding special technical feature." Id.

II. Unity of Invention Exists as Between Groups I-IX

The Office Action asserts that unity of invention does not exist, because the inventions of Groups I to IX do not relate to a single general inventive concept and that they lack the same or corresponding special technical features. However, the Office Action alleges only that the invention of Group II does not provide a contribution over the prior art in view of the teachings of GB 2,079,801. Applicants respectfully disagree with this conclusion.

A. Unity Between Groups I-IV

Contrary to the assertion in the Office Action, the composition, composite yarn, composite structure, and textile structure of Groups I-IV share a common technical feature that is distinguished over the prior art. For example, the yarn of Group II and the composite structure of Group III include the flame-retarded composition of Group I. The textile structure of Group IV includes the yarn of Group II. Thus, Groups I-IV share the common technical feature of Group I.

The claims of Group I (claims 1-6 and 25-26) are directed to a fire-retarded plastic composition, comprising an acrylic resin and an intumescent agent, and exhibiting particular rheological behavior. The claims include features that are not taught or suggested by the prior art, and specifically are not taught or suggested by GB 2,079,801. As noted in the June 21, 2000 International Search Report, GB 2,079,801 is a document that reportedly defines the general state of the art but is not considered to be of particular relevance. Moreover, the Office Action does not point to any specific teachings in GB 2,079,801 that would indicate otherwise. Thus, as long as a common technical feature and single general inventive concept applies to the groups of claims, unity of invention exists and restriction cannot be required.

The Examiner's attention is also directed to Annex B, Part 2, of the PCT Administrative Instructions (MPEP Appendix AI). At least Examples 8, 13 and 15-16 specifically demonstrate that unity of invention exists where the special technical feature is included in the claims of each group. These Examples further demonstrate that Groups I-IV possess unity of invention and should not be subject to a Restriction or Unity of Invention Requirement.

B. Unity of Invention Exists as Between Groups I-IV and Groups VI-VIII

Unity of invention also exists as between Groups I-IV and Groups VI-VII. The Office Action has failed to establish any lack of unity of invention between these groups of claims.

As described above, unity of invention exists if there is a common special technical feature that links the groups of claims. In the present application, Groups I-IV are directed to compositions, composite yarns, composite structures, and textile structures containing the fire-retarded plastic composition of claim 1. Groups VI-VII depend from and include all of the limitations of claim 1. Accordingly, the special technical feature of claim 1, i.e., the fire-retarded plastic composition, is also present in Groups VI-VIII. Thus, unity of invention exists between these groups of claims.

As above, the Examiner's attention is again directed to Annex B, Part 2, of the PCT Administrative Instructions (MPEP Appendix AI). Examples 8, 13 and 15-16 specifically demonstrate that unity of invention exists where the special technical feature is included in the claims of each group. These Examples further demonstrate that Groups I-IV and VI-VIII possess unity of invention and should not be subject to a Restriction or Unity of Invention Requirement.

C. Unity of Invention Exists as Between Groups I-IV and Group IX

Unity of invention exists as between Groups I-IV and Group IX. The Office Action has failed to establish any lack of unity of invention between these groups of claims.

As described above, unity of invention exists if there is a common special technical feature that links the groups of claims. In the present application, Groups I-IV are directed to

compositions, composite yarns, composite structures, and textile structures containing the fire-retarded plastic composition of claim 1. Group IX is directed to a process of obtaining yarn comprising a fire-retarded composition. The process of Group IX can impart unexpected properties to the products of Groups I-IV. The unexpected properties correspond to a special technical feature that defines a contribution over the prior art. Thus, unity of invention exists between these groups of claims.

As above, the Examiner's attention is directed to Annex B, Part 2, of the PCT Administrative Instructions. Example 5 specifically demonstrates that unity of invention exists where the special technical feature is the use of special process conditions corresponding to what is made. This Example further demonstrates that Groups I-IV and IX possess unity of invention and should not be subject to a Restriction or Unity of Invention Requirement.

D. Conclusion

Thus, because the Office Action has not properly demonstrated an absence of unity of invention under the rules, and because unity of invention in fact exists between all of Groups I-IX, the Restriction (Lack of Unity of Invention) Requirement is improper and must be withdrawn. Reconsideration and withdrawal of the Restriction Requirement are respectfully solicited.

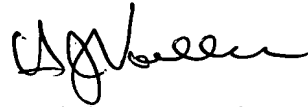
III. No Undue Burden Exists

It is also respectfully submitted that the subject matter of all claims 1-30 is sufficiently related that a thorough search for the subject matter of any one Group of claims would encompass a search for the subject matter of the remaining claims. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis

added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,



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Date: November 10, 2003

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